

Hon. Mr. Hislop.

EMPLOYERS' LIABILITY ACT AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Amendments of definition of workman in "The Employers' Liability Act, 1882."</p> <p>4. Remedy for injury to seamen employed in ships.</p> <p>5. Repeal of section 5 of "The Employers' Liability Act, 1882." Court or jury to assess compensation. Proviso as to limitation in certain cases.</p>	<p>6. Extension of time within which notice of action may be given in certain cases, also of period within which action may be brought.</p> <p>7. Affidavits may be taken before any person authorised to take affidavits in Supreme Court.</p> <p>8. Contracts in bar of benefit of Acts to be void.</p>
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A BILL INTITULED

AN ACT to amend "The Employers' Liability Act, 1882." Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Employers' Liability Act Amendment Act, 1890." Short Title.

2. In this Act, unless inconsistent with the context,—
"Ship" includes any vessel of whatever kind, whether propelled by steam, sails, oars, or by any other motive-power: Interpretation.
"Seaman" includes every person employed upon a ship, whether at sea or in port.

3. The expression "workman," used in "The Employers' Liability Act, 1882" (hereinafter referred to as "the said Act"), and in this Act, includes a seaman as defined by this Act. Amendments of definition of workman in "The Employers' Liability Act, 1882."

The words "work or" shall hereafter be deemed to be inserted before the words "manual labour" where the same occur in the definition of the expression "workman" contained in the second section of the said Act.

4. Where, after the commencement of this Act, in any navigable waters within or in the jurisdiction of New Zealand, personal injury is caused to a seaman— Remy for injury to seamen employed in ships.

(1.) By reason of any defect or unfitness in the condition of any spars, rigging, tackle, machinery, fittings, apparel, or furniture of any ship, or by reason of the absence of any necessary spars, tackle, machinery, fittings, or other apparel or furniture; or

(2.) By reason of the negligence of any person in the service of the employer who has any superintendence intrusted to him, whilst in the exercise of such superintendence; or

(3.) By reason of the negligence of any person in the service of the employer to whose orders or directions the seaman or any other person was at the time of the injury bound to conform and did conform:

then and in any of such cases, if injury results to the seaman, he, or in case of his death his legal personal representatives and any persons

entitled in case of death, shall have the same right of compensation and remedies against the employer as a workman or his legal personal representatives or such persons as aforesaid would, under the provisions of the said Act, have in like cases against his employer.

Repeal of section 5 of "The Employers' Liability Act, 1882." Court or jury to assess compensation.

5. The fifth section of the said Act is hereby repealed, and in lieu thereof it is enacted that— 5

The amount of compensation recoverable under this Act shall be estimated and determined by the Court, or the jury, or assessors, as the case may require, at such amount and in such manner as the Court, or jurors, or assessors think fair and reasonable : 10

Proviso as to limitation in certain cases.

Provided that in cases heard before a jury the amount of compensation recoverable shall not exceed such sum as may be found to be equivalent to the estimated earnings, during the three years preceding the injury, of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed, unless the Judge shall, at the instance of the foreman of the jury, upon being requested by three-fourths of such jury, direct that in his opinion such earnings would not be a fair and reasonable compensation under the circumstances : 15

Provided further that nothing in the last proviso shall apply to the case of an apprentice or artied pupil. 20

Extension of time within which notice of action may be given in certain cases, also of period within which action may be brought.

6. Where a workman has a right of action under the said Act the notice required by the sixth section thereof may be given by such workman, his solicitor or agent ; and if such workman has sustained injury under such circumstances as render him physically or mentally incapable of giving or directing the giving of such notice, or if, in the opinion of his medical adviser, it would be injurious to such workman to give or direct the giving of such notice, or if he be absent from New Zealand without his express action or consent in respect of such absence, and so as in any of such cases to be unable or unfit to give the notice required by the said sixth section, then, notwithstanding anything contained in the said section, such notice may be given not later than *one* month after the workman becomes physically or mentally capable of giving or directing the giving thereof, or when his medical adviser shall consider it would not be injurious to such workmen to give or direct the giving of such notice, or of his return to New Zealand, as the case may be. 25

And, in any such case as herein provided for, the right of action shall be extended to a period of six months from the date when the person is capable or fitted to give or direct the giving of such notice as aforesaid, and shall not reckon from the occurrence of the accident causing the injury. 30

Affidavits may be taken before any person authorised to take affidavits in Supreme Court.

7. Where it may be necessary to make an affidavit for the purposes of any action or suit brought or proposed to be brought under the said Act or this Act, such affidavit may, notwithstanding any Act or law to the contrary, be made and taken before any person authorised by law to take affidavits in the Supreme Court. 35

Contracts in bar of benefit of Acts to be void.

8. Every covenant, contract, or agreement hereafter made or entered into whereby any workman or person binds himself or his personal representatives, either expressly or by implication, not to claim any benefit or enforce any right under the said Act or this Act shall be null and void. 40 50